



(BILLING CODE: 3510-DS-P)

DEPARTMENT OF COMMERCE

International Trade Administration

[C-489-502]

Certain Welded Carbon Steel Standard Pipe from Turkey: Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration,
Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain welded carbon steel standard pipe from Turkey for the period January 1, 2010, through December 31, 2010. We preliminarily find that the net subsidy rate for both companies under review is de minimis. See the “Preliminary Results of Review” section below. Interested parties are invited to comment on these preliminary results. See the “Public Comment” section, infra.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska at 202-482-8362 (for Borusan), Kristen Johnson at 202-482-4793 (for Erbosan), and Gayle Longest at 202-482-3338 (for Toscelik), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1986, the Department published in the Federal Register the CVD order on certain welded carbon steel pipe and tube products from Turkey.¹ On March 1, 2011, the Department published a notice of opportunity to request an administrative review of this CVD order.² On March 30, 2011, we received a letter from Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan) requesting that the company be reviewed by the Department. On March 31, 2011, we received a request from Wheatland Tube Company (Wheatland), the petitioner, to review the following companies: Borusan Group, Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (BMB), and Borusan Istikbal Ticaret T.A.S. (Istikbal), (collectively, Borusan) and Tosyali dis Ticaret A.S. (Tosyali) and Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Profil), (collectively, Toscelik).

On April 27, 2011, the Department initiated an administrative review of the CVD order on certain welded carbon steel standard pipe from Turkey for the period January 1, 2010, through December 31, 2010, covering Borusan, Erbosan, and Toscelik.³

On April 27, 2011, we issued the initial questionnaire to Borusan, Erbosan, Toscelik, and the Government of the Republic of Turkey (GOT). On June 28, 2011, we received the GOT's initial questionnaire response. On July 5, 2011, we received responses to the initial questionnaire from Erbosan and Toscelik. On July 14, 2011, we received Borusan's response to the initial questionnaire.

¹ See Countervailing Duty Order: Certain Welded Carbon Steel Pipe and Tube Products from Turkey, 51 FR 7984 (March 7, 1986).

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 76 FR 11197 (March 1, 2011).

³ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 76 FR 23545 (April 27, 2011).

To the GOT, we issued supplemental questionnaires on July 18, 2011, October 3, 2011, January 5, 2012, and February 1, 2012, and the GOT submitted its responses on September 12, 2011, November 4, 2011, December 15, 2012, January 30, 2012, and February 8, 2012, respectively. To Erbosan, we issued supplemental questionnaires on July 19, 2011, and October 3, 2011, and the company submitted its responses on September 12, 2011, and November 4, 2011, respectively. To Toscelik, we issued a supplemental questionnaire on July 25, 2011, and January 4, 2012, January 20, 2012, and February 1, 2012. Toscelik provided its questionnaire responses on August 29, 2011, January 20, 2012, January 30, 2012, and February 8, 2012. To Borusan, we issued supplemental questionnaires on September 8, 2011 and September 29, 2011, to which it responded on September 20, 2011 and October 6, 2011.

On August 3, 2011, United States Steel Corporation (U.S. Steel), a domestic interested party, submitted a letter requesting that the Department conduct verification of the questionnaire responses submitted by the respondents in this review.

On August 1, 2011, U.S. Steel requested an extension of time for the submission of new subsidy allegations. The original deadline for submitting new subsidy allegations was August 3, 2011. On August 4, 2011, we extended the time period until August 24, 2011.⁴ On August 11, 2011, Wheatland filed new subsidy allegations and new factual information. U.S. Steel submitted new factual information on August 18, 2011, and new subsidy allegations on August 24, 2011. Wheatland and U.S. Steel allege that Borusan, Erbosan, and Toscelik benefitted from a variety of countervailable subsidies provided by the GOT, such as the provision of land and buildings for less than adequate remuneration, grants, preferential lending, reduction in tax rates,

⁴ See Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding "Extension of Time for the Filing of New Subsidy Allegations," (August 4, 2011).

and exemptions from corporate income tax, customs duties and fees, and value added taxes (VAT).

On October 13, 2011, the Department initiated on the new subsidy allegations.⁵ On October 19, 2011, we issued the new subsidies questionnaire to the GOT. On October 21, 2011, we issued the new subsidies questionnaire to Borusan, Erbosan, and Toscelik. Borusan, Toscelik, and Erbosan submitted their responses to the new subsidies questionnaire on December 11, 2011, December 12, 2011, and January 23, 2012, respectively. On January 13, 2012, we issued a supplemental new subsidy questionnaire to Borusan, to which it responded on January 26, 2012. The GOT submitted its response to the new subsidy questionnaire on December 15, 2011.

On October 20, 2011, the Department postponed the deadline for the preliminary results of this administrative review until March 30, 2012.⁶

On October 27, 2011, the Department requested U.S. Customs and Border Protection (CBP) data on Type 3 entries (i.e., suspended entries of subject merchandise) by Erbosan during the period of review (POR).⁷ Because the CBP data showed no suspended Type 3 entries by Erbosan, on November 3, 2011, the Department requested from Erbosan documentation demonstrating a suspended Type 3 entry by the company during the CVD POR.⁸

On November 17, 2011, Erbosan reported that because the exports of subject merchandise to the United States during the POR were to an unrelated importer, the company

⁵ See Memorandum to Melissa G. Skinner, Director, AD/CVD Operations, Office 3, from Robert Copyak, Senior Financial Analyst, AD/CVD Operations, Office 3, regarding “Decision Memorandum on New Subsidy Allegations,” (October 13, 2011).

⁶ See Certain Welded Carbon Steel Standard Pipe from Turkey: Extension of Time for Preliminary Results of Countervailing Duty Administrative Review, 76 FR 65179 (October 20, 2011).

⁷ See Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding “Request for Customs Data in the Countervailing Duty Administrative Review of Certain Welded Carbon Steel Standard Pipe from Turkey,” (October 27, 2011).

⁸ See Letter from the Department to Erbosan regarding “Entry Documentation,” (November 3, 2011).

does not have any entry documentation.⁹ On December 2, 2011, officials of Import Administration met with Erbosan's counsel to discuss the status of the company's entries of subject merchandise during the POR.¹⁰

On December 20, 2011, the Department published a notice of intent to rescind the administrative review of Erbosan and provided interested parties with the opportunity to submit comments on the issue.¹¹ On January 9, 2012, we received and considered the comments from Erbosan and Wheatland on the notice of preliminary rescission. Because there are no suspended entries of subject merchandise produced by Erbosan against which to assess duties, the Department determined to rescind the 2010 administrative review for Erbosan.¹²

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested and not rescinded. Therefore, the only companies subject to this review are Borusan and Toscelik.

Scope of the Order

The products covered by this order are certain welded carbon steel pipe and tube with an outside diameter of 0.375 inch or more, but not over 16 inches, of any wall thickness (pipe and tube) from Turkey. These products are currently provided for under the Harmonized Tariff Schedule of the United States (HTSUS) as item numbers 7306.30.10, 7306.30.50, and

⁹ See Erbosan's "Response to Entry Documentation Request," (November 17, 2011) at 2.

¹⁰ See Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding "Meeting with Counsel for Erbosan," (December 5, 2011).

¹¹ See Certain Welded Carbon Steel Standard Pipe and Tube from Turkey: Intent to Rescind Countervailing Duty Administrative Review, in Part, 76 FR 78886 (December 20, 2011).

¹² See Certain Welded Carbon Steel Standard Pipe and Tube from Turkey: Notice of Rescission of Countervailing Duty Administrative Review, in Part, 77 FR 6542 (February 8, 2012), and accompanying Issues and Decision Memorandum.

7306.90.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Period of Review

The period for which we are measuring subsidies is January 1, 2010, through December 31, 2010.

Company History

BMB and its affiliated foreign trading company, Istikbal, are both part of the Borusan Group. BMB produces subject merchandise for both the home and export markets. During the POR, all subject merchandise exported to the United States was exported from Turkey by BMB. For sales of subject merchandise to other destinations, Istikbal was the exporter from Turkey.

See Borusan's July 14, 2011, questionnaire response at page 2. Consistent with 19 CFR 351.525(c), we are attributing any subsidies received by Istikbal to BMB.

Toscelik Profil and its affiliated foreign trading company, Tosyali, are owned by Tosyali Holding, a Turkish holding company. See Toscelik Profil's July 5, 2011, questionnaire response (Toscelik's July QR) at 5. Toscelik Profil, which produces subject merchandise for both the domestic and export markets, was established in 1992. Id. at 6 and Exhibit 4. Tosyali, founded in 1996, is the exporter of record with respect to Toscelik Profil's export sales and sells subject merchandise to unaffiliated customers in the United States. Id. at 6-7 and Exhibit 7. Consistent with 19 CFR 351.525(c), we are attributing any subsidies received by Tosyali to Toscelik Profil.

Subsidies Valuation Information

Allocation Period

Under 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life (AUL) of the renewable physical assets used to produce

the subject merchandise. Pursuant to 19 CFR 351.524(d)(2), there is a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (IRS Tables), as updated by the Department of Treasury. For the subject merchandise, the IRS Tables prescribe an AUL of 15 years. No interested party has claimed that the AUL of 12 years is unreasonable.

Further, for non-recurring subsidies, we applied the "0.5 percent expense test" described in 19 CFR 351.524(b)(2). Under this test, we compare the amount of subsidies approved under a given program in a particular year to sales (total sales or total export sales, as appropriate) for the same year. If the amount of subsidies is less than 0.5 percent of the relevant sales, then the benefits are allocated to the year of receipt rather than allocated over the AUL period.

Benchmark Interest Rates

Short-Term Benchmark

To determine whether government-provided loans under review conferred a benefit, the Department uses, where possible, company-specific interest rates for comparable commercial loans. See 19 CFR 351.505(a). In the July 14, 2011, questionnaire response at Exhibit 25, Borusan submitted comparable company-specific short term interest rates for 2010. Thus, we calculated the 2010 benchmark interest rate for short term Turkish Lira, Euro and U.S. dollar denominated loans based on the data reported by Borusan as provided under 19 CFR 351.505(a)(2)(ii). To calculate the short term benchmark rates for Borusan, we derived an annual average of the interest rates on commercial loans that Borusan took out during the years in which the government loans were issued, weighted by the principle amount of each loan.

Where no company-specific benchmark interest rates are available, as is the case for Borusan for 2009, the Department's regulations direct us to use a national average interest rate as

the benchmark. See 19 CFR 351.505(a)(3)(ii). However, according to the GOT, there is no official national average short-term interest rate available in Turkey.¹³ Therefore, consistent with our past practice in Turkey CVD proceedings,¹⁴ we calculated the 2009 and 2010 benchmark interest rate for short-term Turkish Lira denominated loans based on short-term interest rate data as reported by The Economist. For U.S. dollar-denominated interest rates, we used lending rate data from International Financial Statistics, a publication of the International Monetary Fund (IMF). For Euro-denominated interest rates, we used prime lending rate data from Moneyrate, an online statistical database operated by the Wall Street Journal.

As discussed below, Borusan paid commissions with regard to loans received under several countervailable loan programs (e.g., the Short-Term Pre-Shipment Rediscount Program, and Pre-Shipment Export Credits programs). It is the Department's practice to normally compare effective interest rates rather than nominal rates in making the loan comparison. See Countervailing Duties; Final Rule, 63 FR 65348, 65362 (November 25, 1998) (Preamble). "Effective" interest rates are intended to take account of the actual cost of the loan, including the amount of any fees, commissions, compensating balances, government charges, or penalties paid in addition to the "nominal" interest rate.

The benchmark short-term Turkish Lira interest rates sourced from The Economist and the Wall Street Journal, however, do not include commissions or fees paid to commercial banks, i.e., they are nominal rates. Further, we preliminarily determine that we lack definitive evidence to conclude that the company-specific short-term rates reported by Borusan include

¹³ See GOT's Initial Questionnaire Response at 17 (June 28, 2011).

¹⁴ See Carbon and Certain Alloy Steel Wire Rod from Turkey; Final Negative Countervailing Duty Determination, 67 FR 55815 (August 30, 2002), and accompanying Issues and Decision Memorandum (Wire Rod Memorandum) at "Benchmark Interest Rates;" see also Preliminary Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey, 72 FR 62837, 62838 (November 7, 2007) (Turkey Pipe 2006 Preliminary Results), unchanged in Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey, 73 FR 12080 (March 6, 2008) (Turkey Pipe 2006 Final Results).

commissions. Therefore, for these preliminary results, we compared the benchmark interest rate to the interest rate that Borusan was charged on the countervailable loans, exclusive of commissions, to make the comparison on a nominal interest rate basis.

Long-Term Benchmark

As discussed above, to determine whether government-provided loans under review conferred a benefit, the Department uses, where possible, company-specific interest rates for comparable commercial loans. See 19 CFR 351.505(a). However, Toscelik, the firm for which a long-term interest rate is required, did not report any company-specific long-term benchmark rates. Where no company-specific benchmark interest rates are available, as is the case in this review, the Department's regulations direct us to use a national average interest rate as the benchmark. See 19 CFR 351.505(a)(3)(ii). We also lack information from the GOT concerning long-term interest rates in Turkey. Therefore, in accordance with 19 CFR 351.505(a)(3)(ii), we used the national average discount rate in Turkey for the relevant years, as reported in International Financial Statistics, as the long-term discount rate utilized in the grant allocation formula.

Analysis of Programs

I. Programs Preliminarily Determined To Be Countervailable

A. Deduction from Taxable Income for Export Revenue

Addendum 4108 of Article 40 of the Income Tax Law, effective June 2, 1995, allows taxpayers engaged in export activities to claim a lump sum deduction from gross income, in an amount not to exceed 0.5 percent of the taxpayer's foreign-exchange earnings. See Government of Turkey's initial questionnaire response (GOT's initial questionnaire) at II-4 and II-5. The deduction for export earnings may either be taken as a lump sum on a company's annual income

tax return or be shown within the company's marketing, selling and distribution expense account of the income statement to record the subtraction of eligible undocumented expenses from gross income. Id. Undocumented expenses are expenses that are not supported by invoices for lodging, food, and transportation costs incurred during overseas business trips. Id. Under this program, those expenses are deductible expenditures for tax purposes. Id.

Consistent with prior determinations, we preliminarily find that this tax deduction is a countervailable subsidy. See, e.g., Certain Welded Carbon Steel Standard Pipe from Turkey: Preliminary Results of Countervailing Duty Administrative Review, 75 FR 16439, 16440-41 (April 1, 2010) (Turkey Pipe 2010 Preliminary Results), unchanged in the final results, see Certain Welded Carbon Steel Standard Pipe from Turkey: Preliminary Results of Countervailing Duty Administrative Review, 75 FR 44766 (July 29, 2010) (Turkey Pipe 2010 Final Results).

The income tax deduction provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Tariff Act of 1930, as amended (the Act), because it represents revenue forgone by the GOT. The deduction provides a benefit in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act. It is also specific under section 771(5A)(B) of the Act because its receipt is contingent upon export earnings. In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of the Department's prior finding of countervailability for this program.

During 2010, BMB, Istikbal, and Tosyali used the deduction for export earnings program with respect to their 2009 income taxes.

The Department typically treats a tax deduction as a recurring benefit in accordance with 19 CFR 351.524(c)(1). To calculate the countervailable subsidy rate for this program, we calculated the tax savings realized by BMB, Istikbal, and Tosyali in 2010, as a result of the

deduction for export earnings. For BMB and Istikbal, we divided their combined tax savings by Borusan's total export sales for 2010. For Tosyali, we divided the tax savings realized by Toscelik's total export sales for 2010.

On this basis, we preliminarily determine the net countervailable subsidy for this program to be 0.08 percent ad valorem for Borusan, and 0.04 percent ad valorem for Toscelik.

B. Foreign Trade Companies Short-Term Export Credits

The Foreign Trade Company (FTC) loan program was established by the Turkish Export Bank to meet the working capital needs of exporters, manufacturer-exporters, and manufacturers supplying exporters. See GOT's Initial Questionnaire at II-31. This program is specifically designed to benefit Foreign Trade Corporate Companies (FTCC) and Sectoral Foreign Trade Companies (SFTC).¹⁵ Id. An FTCC is a company whose export performance was at least US\$100 million in the previous year and has paid-in-capital of Turkish Lira 2 million or more. The Undersecretariat for Foreign Trade grants FTCC and SFTC status to eligible companies. Id.

To eligible companies, the Export Bank provides short-term export loans in Turkish Lira or foreign currency, based on their prior export performance and financial criteria, up to 100 percent of the free on board (FOB) export commitment. Id. at II-34. The loan interest rates are set by the Export Bank and the maximum term for the loans is 360 days. Id. To qualify for an FTC loan, along with the necessary application documents, a company must provide a bank letter of guarantee, equivalent to the loan's principal and interest amount, because the financing is a direct credit from the Export Bank. Id. at II-33. During the POR, Istikbal was the only Borusan company to pay interest against FTC credits during the POR. Id. at II-35. See Borusan's July 14, 2012, questionnaire response at p. 26.

¹⁵ To promote exports and diversify export products and markets, the GOT encouraged small and medium scale enterprises to form SFTC, which comprise a group of companies that operate together in a similar sector.

Consistent with previous determinations, we preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. See Turkey Pipe 2010 Preliminary Results, 75 FR at 16439 unchanged in the Turkey Pipe 2010 Final Results; see also Turkey Pipe 2006 Preliminary Results, 72 FR at 62839, unchanged in the Turkey Pipe 2006 Final Results. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT, under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act in the amount of the difference between the payments of interest that Istikbal made on its loans during the POR and the payments the company would have made on comparable commercial loans. The program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. Further, the FTC loans are not tied to a particular export destination. Therefore, we treated this program as an untied export loan program, which renders it countervailable regardless of whether the loans were used for exports to the United States. Id.

Pursuant to 19 CFR 351.505(a)(1), we calculated the benefit as the difference between the payments of interest that Istikbal made on its FTC loans during the POR and the payments the company would have made on comparable commercial loans.¹⁶ In accordance with section 771(6)(A) of the Act, we subtracted from the benefit amount the fees that Istikbal paid to commercial banks for the required letters of guarantee. We then divided the resulting benefit by Borusan's total export sales for 2010. On this basis, we preliminarily find that the net countervailable subsidy for this program is 0.01 percent ad valorem for Borusan.

Toscelik reported that it did not use this program during the POR.

¹⁶ See "Benchmark Interest Rates," supra (discussing the benchmark rates used in these preliminary results).

C. Pre-Export Credits

The Pre-Export Credit program meets the working capital needs of exporters, manufacturers, and manufacturers supplying exporters, except for FTC and SFTC classified exporters, which are ineligible to receive credits under this program. See GOT's Initial Questionnaire at II-21. Eligible applicants are companies that exported more than \$200,000 of goods in the previous 12 months. Id. Like FTC loans, the Export Bank directly extends pre-export loans to eligible companies for the FOB value of the export commitment. Id. at II-22. The loans, which have interest rates set by the Export Bank, are denominated in either Turkish Lira or foreign currency and have a maximum maturity of 540 days. Id. at II-25. To qualify for a pre-export loan, along with the necessary application documents, a company must provide a bank letter of guarantee, equivalent to the loan's principal and interest amount. Id. at II-22 to II-23. In March, 2008, interest rates applied to companies started to be determined according to their outstanding risks in Short Term Export Credits. Id. at II-18. During the POR, Borusan (specifically, BMB) was the only respondent that paid interest against pre-export loans. Id. at II-26. See Borusan's July 14, 2011, questionnaire response at p. 27

Consistent with previous determinations, we preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. See, e.g., Turkey Pipe 2010 Preliminary Results, unchanged in the Turkey Pipe 2010 Final Results. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT, under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act in the amount of the difference between the payments of interest that BMB made on the loans during the POR and the payments the company would have made on comparable commercial loans.

The program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance.

Further, like the FTC loans, these loans are not tied to a particular export destination. Therefore, we treated this program as an untied export loan program rendering it countervailable regardless of whether the loans were used for exports to the United States. Id. Pursuant to 19 CFR 351.505(a)(1), we calculated the benefit as the difference between the payments of interest that BMB made on its pre-export loans during the POR and the payments the company would have made on comparable commercial loans. In accordance with section 771(6)(A) of the Act, we subtracted from the benefit amount the fees which BMB paid to commercial banks for the required letters of guarantee. We then divided the resulting benefit by Borusan's total export value for 2010. On this basis, we preliminarily find that the net countervailable subsidy for this program is 0.01 percent ad valorem for Borusan.

Toscelik reported that it did not use this program during the POR.

D. Pre-Shipment Export Credits

Turkish Export Bank provides short-term pre-shipment export loans through intermediary commercial banks to exporters, manufacturer-exporters, and manufacturers supplying exporters and SFTCs to assist them in meeting their export commitments. See GOT's Initial Questionnaire Response at II-10. The commercial banks, which assume the default risks of the borrowers, are allocated credit lines by the Export Bank to make the loans. Id. These loans cover up to 100 percent of the FOB export value, are denominated in either Turkish Lira or foreign currency, and have a maximum term of 540 days. Id. The interest rates charged on these pre-shipment loans are set by the Export Bank. Id. However, because these loans are provided through intermediary commercial banks, those banks can add a maximum one percent to the Turkish Lira loan interest

rate and 0.5 percent to the foreign currency loan interest rate as their commissions.¹⁷ Since March 2008 interest rates applied to companies are determined according to their outstanding risks in Short Term Export Credits. Id. at II-11.

In previous determinations, the Department found this program to be countervailable because receipt of the loans is contingent upon export performance and a benefit was conferred to the extent that the interest rates paid on the government loan were less than the amount the recipient would pay on comparable commercial loans. See, e.g., Turkey Pipe 2010 Preliminary Results, 75 FR 16442, unchanged in the Turkey Pipe 2010 Final Results.

The Department also found that this program is an untied export loan program because the loans are not specifically tied to a particular destination at the time of approval and the borrower only has to demonstrate that the export commitment was satisfied (i.e., exports amounting to the FOB value of the credit) to close the loan. See Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey, 71 FR 43111 (July 31, 2006) (Turkey Pipe 2004 Final Results), and accompanying Issues and Decision Memorandum at “Pre-Shipment Export Credits.”

In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of the Department’s prior findings for this program. During the POR, Borusan (specifically, BMB) was the only respondent that paid interest against pre-shipment export credit loans.

Consistent with the prior findings, we preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT, under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act in the amount of

¹⁷ See GOT’s Initial Questionnaire Response at 13.

the difference between the payments of interest that BMB made on the loans during the POR and the payments the company would have made on comparable commercial loans. The program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance.

Pursuant to 19 CFR 351.505(a)(1), we calculated the benefit as the difference between the payments of interest that BMB made on its pre-shipment export loans during the POR and the payments the company would have made on comparable commercial loans. It is the Department's practice to normally compare effective interest rates rather than nominal rates in making the loan comparison. See Countervailing Duties; Final Rule, 63 FR 65348, 65362 (November 25, 1998) (Preamble). "Effective" interest rates are intended to take account of the actual cost of the loan, including the amount of any fees, commissions, compensating balances, government charges, or penalties paid in addition to the "nominal" interest rate.

The benchmark short-term Turkish Lira interest rates sourced from The Economist, however, do not include commissions or fees paid to commercial banks, i.e., they are nominal rates. See "Benchmark Interest Rate," section supra. Therefore, for these preliminary results, we compared the benchmark Turkish Lira interest rate to the interest rate that BMB was charged on the pre-shipment export credit loans, exclusive of the intermediary bank commissions, to make the comparison on a nominal interest rate basis.

After computing the benefit amount, we subtracted from the benefit amount the fees which BMB paid to commercial banks for the required letters of guarantee, as provided under section 771(6)(A) of the Act. We then divided that amount by Borusan's total export value for 2010. On this basis, we preliminarily find that the net countervailable subsidy for this program is less than 0.005 percent ad valorem for Borusan. Consistent with the Department's practice, a

subsidy rate of less than 0.005 percent ad valorem does not confer a measurable benefit and, therefore, we have not included it in the calculation of the net countervailable rate.¹⁸

Toscelik reported that it did not use this program during the POR.

E. Short-Term Pre-Shipment Rediscount Program

“Short Term Pre-Shipment Rediscount Program” (SPRP) was established in 1995. It is administered by Turkey’s Export Bank. See GOT’s Initial Questionnaire at II-53. The SPRP program is designed to provide financial support to Turkish exporters, manufacturer-exporters and manufacturers supplying exporters. Id. This program is contingent upon an export commitment. Id. Under SPRP, there is a limit of USD 200,000, up to USD 20 million per company. Loan payments shall be made within the credit period or at maturity to the Export Bank. Companies can repay either in the foreign currency in which the loan was obtained or in a Turkish Lira equivalent of principal and interest set using the exchange rate determined by the Export Bank. Id. at II-55 to II-56. In March 2008 interest rates applied to companies started to be determined according to their outstanding risks in Short Term Export Credits. Id. at 54. During the POR, Borusan (specifically, BMB and Istikbal) paid interest against pre-shipment rediscount export credit loans. See Id. at Exhibit 9.

We preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT, under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act in the amount of the difference between the payments of

¹⁸ See Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, 74 FR 46100, 46103, 46106 (September 8, 2009) at “Research and Development Grants Under the Industrial Development Act” and “R&D Grants Under the Act on the Promotion of the Development of Alternative Energy,” unchanged in Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 55192 (October 27, 2009).

interest that BMB and Istikbal made on the loans during the POR and the payments the company would have made on comparable commercial loans. The program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance.

Pursuant to 19 CFR 351.505(a)(1), we calculated the benefit as the difference between the payments of interest that BMB and Istikbal made on its short-term pre-shipment rediscount loans during the POR and the payments the companies would have made on comparable commercial loans. It is the Department's practice to normally compare effective interest rates rather than nominal rates in making the loan comparison. See Countervailing Duties; Final Rule, 63 FR 65348, 65362 (November 25, 1998) (Preamble). "Effective" interest rates are intended to take account of the actual cost of the loan, including the amount of any fees, commissions, compensating balances, government charges, or penalties paid in addition to the "nominal" interest rate.

The benchmark short-term Turkish Lira interest rates sourced from The Economist, however, do not include commissions or fees paid to commercial banks, i.e., they are nominal rates. See "Benchmark Interest Rate," section supra. Therefore, for these preliminary results, we compared the benchmark Turkish Lira interest rate to the interest rate that BMB and Istikbal were charged on the pre-shipment export rediscount credits, exclusive of the intermediary bank commissions, to make the comparison on a nominal interest rate basis.

After computing the benefit amount, we subtracted from the benefit amount the fees which BMB and Istikbal paid to commercial banks for the required letters of guarantee, as provided under section 771(6)(A) of the Act. We then divided that amount by Borusan's total export value for 2010. On this basis, we preliminarily find that the net countervailable subsidy

for this program is 0.17 percent ad valorem for Borusan and 0XX percent ad valorem for Istikbal.

F. Law 5084: Withholding of Income Tax on Wages and Salaries

The Ministry of Finance of the GOT administers the withholding of income tax on wages and salaries program (withholding of income tax program) pursuant to Article 2 and Article 3 of Law 5084. The purpose of this program under Law 5084, as set forth in Article 3, is to increase investments and employment opportunities in certain provinces of Turkey by canceling the income tax calculated on the wages and salaries of the workers. See GOT's June 23, 2011, questionnaire response (GOT's June QR) at II-47 and Exhibit 23. According to the GOT, all enterprises or industries established in the 49 provinces which have a GDP per capita equal to or less than 1,550 US dollars (as determined by the State Institute of Statistics as of 2001) or which have a negative socio-economic development index value (as determined by the State Planning Organization as of 2003) can benefit from this program. Id. at II-49 and Exhibit 24.

The GOT states that this program includes two levels of withholding based on where the enterprise is established in the 49 eligible provinces. See GOT's June QR at II-47. According to the GOT, firms whose premises are established in Organized Industrial Zones (OIZ) or Industrial Zones located in the 49 provinces can benefit from 100 percent cancellation of income tax calculated on the wages of all workers who have been hired by income or corporate tax payers hiring at least ten workers. Id. Companies whose premises are located at other areas of the 49 eligible provinces can benefit from 80 percent cancellation of income tax calculated on the wages of all workers who have been hired by income or corporate tax payers hiring at least ten workers. Id. The GOT further states that the total amount to be cancelled cannot exceed the sum determined on the basis of the above mentioned rates calculated on the value to be obtained

by multiplying the number of employees and the income tax payable for the minimum wage. Id. In addition, Article 7 of Law 5084 states that this program shall be applicable for any new investments for five years for the ones completed by December 31, 2007, for four years for the ones completed by December 31, 2008 and for three years for the ones completed by December 31, 2009. See GOT's June QR at II-47. Hence, the last date which the investment can benefit from this tax incentive program is December 31, 2012. Id.

During the POR, Toscelik reported that it received a benefit under this program with respect to its facility in the Osmaniye OIZ. See Toscelik's July 5, 2011, questionnaire response (July QR) at 20. Although Toscelik acknowledges receiving this benefit, Toscelik states that the relief of payment of withholding does not benefit subject merchandise since its Osmaniye plant produces only billet, hot-rolled coil, and spiral-weld pipe, none of which are subject merchandise and the relief only applies to the workers at the Osmaniye plant. Id. and Toscelik's August 29, 2011, questionnaire response (August QR). However, in a subsequent submission, Toscelik explains that the hot-rolled coils produced at the Osmaniye plant with a thickness greater than or equal to two millimeters are an input into subject merchandise. See Toscelik's August QR. Toscelik further explains that the equipment at the Osmaniye plant could not be used to produce subject merchandise because this facility does not have pipe-making equipment in Osmaniye for subject merchandise. Id.

With respect to the product tying arguments presented by Toscelik, we refer to 19 CFR 351.525(b)(5), which addresses the attribution of subsidies to a particular product. Section 351.525(b)(5)(i), states that if a subsidy is tied to the production or sale of particular products, the Secretary will attribute the subsidy only to those products. However, the respondent must demonstrate that the subsidy is, in fact, tied to out-of-scope merchandise and could not benefit

production of in-scope merchandise. Because Toscelik produces hot-rolled coils at the Osmaniye plant that can be used as an input into the subject merchandise, we preliminarily determine that there is nothing on the record that demonstrates that this program is precluded from benefitting the subject merchandise.

In these Preliminary Results, we find that during the period of review, Toscelik benefitted from the withholding of income tax under this OIZ program pursuant to Section 771(5)(E)(i) of the Act in the amount of the income taxes on wages and salaries that it did not pay. We also find that this program is regionally-specific under 771(5A)(D)(iv) because it is limited to companies located in the 49 eligible provinces. Moreover, we find that this program constitutes a financial contribution in the form of revenue forgone within the meaning of 19 CFR 351.503(iii) to the extent that it relieves Toscelik of the obligation to pay income taxes on wages and salaries that it would have had to pay absent this program.

We attributed the subsidy to Toscelik's total sales pursuant to 19 CFR 351.525(b)(3).

To calculate the benefit from the income tax relief that Toscelik received under the income tax withholding program, we summed the total amount of income tax savings reported by Toscelik during the POR. See 19 CFR 351.509(a)(1). To calculate the net subsidy rate, we divided the benefit by Toscelik's total f.o.b. sales during the POR. On this basis, we preliminarily determined Toscelik's net subsidy rate under this program to be 0.02 percent ad valorem.

G. Law 5084: Incentive for Employers' Share in Insurance Premiums

The Social Security Institution of the GOT administers the incentive for the Employer's Share in Insurance Premiums Program (Insurance Premiums Program) pursuant to Article 2 and Article 4 of Law 5084. See GOT's September QR at I-7 and GOT's June QR at Exhibit 23. The

purpose of this program, as set forth in Article 4 of Law 5084, is to increase investments and employment opportunities in certain provinces of Turkey by providing support for the employer's share of insurance premiums through the GOT's limited or full undertaking of that share under certain conditions. See GOT's September QR at I-8. According to the GOT, all enterprises or industries established in the 49 provinces which have a GDP per capita equal to or less than 1,550 US dollars (as determined by the State Institute of Statistics as of 2001) or which have a negative socio-economic development index value (as determined by the State Planning Organization as of 2003) can benefit from this program. See GOT's September QR at I-8 and GOT's June QR at Exhibit 24.

The GOT states that this program includes two levels of activity based on where the enterprise is established in the 49 eligible provinces. See GOT's September QR at I-8. According to the GOT, firms whose premises are established in Organized Industrial Zones (OIZs) or Industrial Zones located in the 49 provinces can benefit from a 100 percent undertaking for income tax or corporate taxpayers (employers) hiring at least ten workers. Id. Companies whose premises are located at other areas of the 49 eligible provinces can benefit from 80 percent undertaking for income tax or corporate taxpayers (employers) hiring at least ten workers. Id. The GOT further states that the support will be provided if employers submit monthly premium and service documents to the Social Security Institution within the statutory periods in conformity with the Social Security Law No. 506 and if they pay the amounts corresponding to the employees' share in the insurance premiums of all the insured and the employers' share which is unmet by the Treasury. Id.

In addition, Article 7 of Law 5084 states that this program shall be applicable for any new investments for five years for the ones completed by December 31, 2007, for four years for

the ones completed by December 31, 2008 and for three years for the ones completed by December 31, 2009. See GOT's September QR at I-9. Hence, the last date which the investment can benefit from this tax incentive program is December 31, 2012. Id.

Toscelik reported that it received benefits under this program during the POR, because its Osmaniye plant is located in the OIZ zone in the Osmaniye province which is one of the 49 eligible provinces. See Toscelik's August QR at 6. As explained above, because Toscelik produces hot-rolled coils at the Osmaniye plant that can be used as an input into the subject merchandise, we preliminarily determine that there is nothing on the record that demonstrates that this program is precluded from benefitting the subject merchandise. See "Law 5084: Withholding of Income Tax on Wages and Salaries" section above.

In these Preliminary Results, we also find that during the period of review, Toscelik benefitted from the forgiveness on payments for the employer's share of social security payments under this OIZ program pursuant to Section 771(5)(E)(iii) of the Act in the amount of the social security insurance premiums that it did not pay. We also find that this program is regionally-specific under 771(5A)(D)(iv) because it is limited to companies located in the 49 eligible provinces. Moreover, we find that this program constitutes a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act to the extent that it relieves Toscelik of the obligation to pay social security insurance premiums that it would have had to pay absent this program.

To calculate the benefit from the social security insurance premium relief that Toscelik received under the insurance premiums program, we summed the total amount of insurance premium savings reported by Toscelik during the POR. See 19 CFR 351.509(a)(1). To calculate the net subsidy rate, we divided the benefit by Toscelik's total f.o.b. sales during the POR. On

this basis, we preliminarily determined Toscelik's net subsidy rate under this program to be 0.15 percent ad valorem.

H. Law 5084: Allocation of Free Land

The Ministry of Science, Industry and Technology General Directorate of Industrial Zones administers the free land allocation support program. See GOT's September QR at I-21. According to the GOT, all enterprises or industries established in the 49 provinces which have a GDP per capita equal to or less than 1,550 US dollars (as determined by the State Institute of Statistics as of 2001) or which have a negative socio-economic development index value (as determined by the State Planning Organization as of 2003) that are also located in OIZs can benefit from free land allocation support pursuant to Provisional Article 1 of Law 5084. See September QR at I-22 and GOT's June QR at Exhibit 24. The GOT further states that although the main provisions regarding the land allocation support for OIZs are regulated under Provisional Article 1, both Article 5 of Law 5084 and Provisional Article 1 govern the land allocation support. Id. The GOT further states that pursuant to Article 2, paragraph 1, clause (b) of Law 5084, the Allocation of Investment Sites Free of Charge is provided not only for aforementioned 49 provinces, but also for other provinces covered under the priority regions for development. Id. at I-23 and Exhibit 9. According to the GOT, the objective of this program is to reduce inter-regional disparities and to increase employment in provinces where the development is relatively low. Id.

With respect to companies in the OIZs, the GOT states that pursuant to Provisional Article 1, non-allocated parcels in the OIZ, located in the provinces subject to clause (b) of Article 2 of Law 5084 can be allocated to real or legal entities free of charge provided that the competent bodies of the OIZ decide accordingly. See GOT's September QR at I-24. According

to the GOT, in OIZs under this program, free parcels were allocated to companies that employ at least ten employees. Id. The GOT states that OIZs are established anywhere in Turkey regardless of the geographic location with the aim of gathering the industrial facilities in well-coordinated manner with necessary infrastructures. Id. The GOT states that the implementation of the program initiated on February 6, 2004, and remained in force until February 6, 2010, the end of the validity period mentioned in paragraph 4, Provisional Article 1. Id.

According to the GOT, to apply for this program the investor fills out the application form and submits it to the OIZ administration. See September QR at I-25. The GOT states that the OIZ administration decides whether or not to allocate the land to the investor within 30 days. Id. If the application is approved, then a Free Land Allocation Agreement is signed by the investor and the OIZ Administration and sent to the Ministry of Science, Industry and Technology. Id. According to the GOT, the investors who have benefited from free land allocation support are obligated to start production in two years at the latest while employing at least 10 people. Id. The GOT states that at the end of this period the land allocation of investors who have not started production are cancelled. Id. In addition, the land allocations of investors who have ceased investment are cancelled. Id.

Toscelik reported that it received free land in the Osmaniye OIZ under Law 5084 Provisional Article 1. See Toscelik's August 29, 2011 QR at 8. Toscelik reports that the land transfer was made on December 29, 2008 in a single installment. Id. at 10. Toscelik further reported that the land is the site of the entire Osmaniye facility, including the steel mill and the rolling mill that produces the coils that feed the spiral pipe mill in Osmaniye. See Toscelik's January 30, 2012, questionnaire response (January 30 QR) at 2. In addition, the site includes the welded pipe mill in Iskenderun, as well as the billets that feed the bar mill at Tosyali Demir in

Iskenderun. Id.

In these Preliminary Results, we find that during the period of review, Toscelik benefitted from the provision of free land under this OIZ program pursuant to section 771(5)(E)(iv) of the Act in that it was able to obtain goods (i.e., land) for less than it would otherwise pay in the absence of this subsidy. We also find that this program is regionally-specific under 771(5A)(D)(iv) of the Act because it is limited to companies located in the 49 eligible provinces. Moreover, we find that this program constitutes a financial contribution in the form of land provided for less than adequate remuneration (LTAR) within the meaning of section 771(5)(D)(iii) of the Act.

We preliminarily determine to rely on publicly available information concerning industrial land prices in Turkey for purposes of calculating a comparable commercial benchmark price for land available in Turkey. See Memorandum to the File from Eric B. Greynolds, Program Manager, Office 3, Operations, “Placement of Land Price Information on Record of Review,” (March 26, 2012) (Land Price Memorandum), a public document available via IA Access in Room 7046 of the Central Records Unit in the Commerce Building. We find this land price may serve as a comparable commercial benchmark under 19 CFR.351.511(a)(2)(i).

We considered other potential benchmarks submitted on the record but have preliminarily determined not to use them. Toscelik submitted transaction information with regard to an adjacent plot of land that it purchased from the GOT. See Toscelik’s August QR at 9 and Exhibit 11 and Toscelik’s February 8, 2012 QR at 1. However, we preliminarily determine that we cannot use this price as a commercial benchmark under 19 CFR 351.511(a)(2)(i) because it pertains to prices charged by the very provider of the good at issue, and we would not normally use these prices for comparison purposes under tier one or tier two where other more appropriate

benchmark data are available. Our approach in this regard is consistent with the Department's practice. See Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review, 74 FR 20923 (May 6, 2009), and accompanying Issues and Decision Memorandum at Comment 11. In addition, the GOT submitted a land valuation that it uses to calculate property taxes in the Osmaniye region. See GOT's February 8, 2012 QR at 7. However, information from the GOT indicates that this land value represents a "minimum" land price. Id. Because the land value from the GOT is a "minimum" price, we preliminarily determine that it cannot serve as a viable commercial benchmark under 19 CFR 351.511(a)(1).

To calculate the benefit, we multiplied the area of land Toscelik obtained free of charge from the GOT by the unit benchmark land price discussed above. Next, we performed the 0.5 percent test by dividing the benefit by Toscelik's total sales in 2008. See 19 CFR 351.524(b)(2). The resulting ratio exceeded 0.5 percent of Toscelik's total sales, therefore, we allocated a portion of the benefit to the POR using the Department's standard grant allocation formula. See 19 CFR 351.524(d). We lack company-specific information concerning interest rates charged to Toscelik on long-term debt. We also lack information from the GOT concerning long-term interest rates in Turkey. Therefore, in accordance with 19 CFR 351.505(a)(3)(ii), we used the national average discount rate in Turkey for 2008 as the long-term discount rate utilized in the grant allocation formula.

In its questionnaire response, Toscelik argues that the Department should use a 55-year AUL that corresponds to a depreciation schedule utilized in its financial statement for purposes of performing the grant allocation calculation described under 19 CFR 351.524(d). See Toscelik's August 29, 2011, questionnaire response at 16. However, for purposes of the

preliminary results, we used the standard 15-year AUL described above in the “Allocation Period” section when conducting the grant allocation calculation. Our approach in this regard is consistent with the Department’s approach in other land for less than adequate remuneration (LTAR) programs involving the outright sale of land. See, e.g., Notice of Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From the Republic of Korea, 67 FR 62102 (September 23, 2002), and accompanying Issues and Decision Memorandum at Provision of Land at Asan Bay, in which the Department used the standard AUL for the steel industry, as indicated by the IRS tables, to allocate benefits received under a land for LTAR program to the period of investigation.

To calculate the net subsidy rate, we divided the benefit by Toscelk’s total f.o.b. sales during the POR. On this basis, we preliminarily determined Toscelik’s net subsidy rate under this program to be 0.11 percent ad valorem.

I. Law 5084: Energy Support

The Ministry of Economy, General Directorate of Incentives and Implementation and Foreign Investments administers the energy support program pursuant to Article 2 and Article 6 of Law 5084. See GOT’s September QR at I-13 and July QR at Exhibit 23. According to the GOT the main objective of this program is to reduce inter-regional disparities and to increase employment. See GOT’s September QR at I-14. According to the GOT, all enterprises or industries established in the 49 provinces which have a GDP per capita equal to or less than 1,550 US dollars (as determined by the State Institute of Statistics as of 2001) or which have a negative socio-economic development index value (as determined by the State Planning Organization as of 2003) can benefit from this program. See GOT’s September QR at I-14 and GOT’s June QR at Exhibit 24.

The GOT states that enterprises operating or investing in the designated provinces are eligible for the support at rates ranging from 20 percent to 50 percent of the cost of electricity energy consumption, depending on their existing employment levels and the number of new hires. See GOT's September QR at I-14. Specifically, eligible businesses should operate in animal husbandry (including aquaculture and poultry), organic and biotechnological agriculture, mushroom cultivation and composting, greenhouse production, certificated seed production, cooling warehouse, manufacturing industry, mining, tourism accommodation, education or health services. In addition, these businesses should have at least 10 employees. See GOT's September QR at I-14 and GOT's July QR at Exhibit 23. According to the GOT, the energy support rate is applied as 20 percent of energy cost of the undertaking. The energy support rate increases 0.5 point for 1) each additional employee above 10 employees hired by newly established undertakings which started business as of April 1, 2005 or 2) for each additional employee above 10 employees who were hired after the date set by the Law for operating undertakings which started business before April 1, 2005. Id. According to the GOT, energy support shall not exceed 50 percent of the electricity costs of the undertakings operating in OIZs or Industry Zones and 40 percent of these costs for the undertakings operating in other areas. Id.

According to the GOT, in order to benefit from energy support, eligible firms must apply to the Provincial Offices of the Ministry of Science, Industry and Technology. See GOT's September QR at I-16. The program is implemented by a provincial Energy Support Commission (Commission) which is chaired by the provincial governor or lieutenant governor. Id. The Commission is constituted from delegates from Provincial Offices of the Ministry of Science, Industry and Technology, Ministry of Finance (Tax Office), Ministry of Labor and Social Security (Provincial Offices of Social Security Institution), Turkish Electricity

Distribution Company and OIZ if any. Id. The Commission evaluates the applications according to the information provided in the application form and other documents submitted with regard to their conformity to the conditions set by the related legislation. Id. If a firm is found eligible, the Commission also determines the rate of energy support to be applied for that firm. Id.

Toscelik reported that it received energy subsidies during the POR. See Toscelik's August 29 QR at 13. According to Toscelik all energy subsidies received by the Osmaniye facility relate solely to the portion of the Osmaniye facility that produces spiral-welded pipe. See Toscelik's January 30 QR at 3. Toscelik points to its August 29 QR and asserts that documentation in Exhibit 12 demonstrates that the benefits from this program are attributable solely to "spiral energy support deduction," i.e., the support for energy expenses relating to the spiral-pipe production facility. See Toscelik's January 30 QR at 3. Toscelik further maintains that the investment certificate which is related to the Osmaniye facility is explicitly only related to the spiral pipe production line. Id. Moreover, Toscelik asserts that there is no other investment certificate for the other aspects of Toscelik's Osmaniye operation. Id.

When a respondent claims that that a subsidy is tied to non-subject merchandise, the respondent must provide evidence to substantiate their claim. We preliminarily determine that the document to which Toscelik cites in Exhibit 12 of its response does not establish a tie between the subsidy and the non-subject merchandise. Furthermore, with respect to the investment certificate cited, we preliminarily determine that the language on the certificate does not indicate that the subsidy in question is linked specifically to spiral pipe. Therefore, as explained above, because Toscelik produces hot-rolled coils at the Osmaniye plant that can be used as an input into the subject merchandise, we preliminarily determine that there is nothing on

the record that demonstrates that this program is precluded from benefitting the subject merchandise. See “Law 5084: Withholding of Income Tax on Wages and Salaries” section above.

In these Preliminary Results, we also find that during the period of review, Toscelik benefitted from the energy subsidies under this OIZ program pursuant to section 771(5)(E)(ii) of the Act in that it was able to obtain goods (i.e., electricity) for less than it would otherwise pay in the absence of this subsidy. We also find that this program is regionally-specific under 771(5A)(D)(iv) because it is limited to companies located in the 49 eligible provinces. Moreover, we find that this program constitutes a financial contribution in the form of electricity provided at LTAR within the meaning of section 771(5)(D)(iii) of the Act.

To calculate the benefit from the energy subsidies that Toscelik received under the energy support program, we summed the total amount of energy subsidies reported by Toscelik during the POR and treated it as a non-recurring grant. Next, in accordance with 19 CFR 351.524(b)(2), we determined whether to allocate the non-recurring benefit from the grant over Toscelik’s AUL by dividing the approved amount by Toscelik’s total f.o.b. sales during the POR. The resulting ratio was less than 0.5 percent of Toscelik’s total f.o.b. sales, therefore we allocated the benefit to the POR. On this basis, we preliminarily determine Toscelik’s net subsidy rate under this program to be 0.02 percent ad valorem.

J. OIZ: Exemption from Property Tax

Toscelik reported that it received an exemption from property tax with respect to its Osmanyte facilities because of their location in the OIZ, during the POR. See Toscelik’s August 29, 2011 QR at 14. In these Preliminary Results, we find that during the period of review, Toscelik benefitted from the exemption from property tax under this OIZ program pursuant to

Section 771(5)(E)(i) of the Act in the amount of the property taxes that it did not pay. We also find that this program is regionally-specific under 771(5A)(D)(iv) because it is limited to companies located in the OIZ. Moreover, we find that this program constitutes a financial contribution in the form of revenue forgone within the meaning of 19 CFR 351.503(iii) to the extent that it relieves Toscelik of the obligation to pay property taxes that it would have had to pay absent this program.

To calculate the benefit from the tax relief that Toscelik received under the property tax exemption program, we took the total amount of property tax savings reported by Toscelik during the POR and divided the amount of the benefit by Toscelik's total f.o.b. sales during the POR. On this basis, we preliminarily determine Toscelik's net subsidy rate under this program to be 0.01 percent ad valorem.

II. Programs Preliminary Determined To Not Confer Countervailable Benefits During The POR

A. Inward Processing Certificate Exemption

Under the Inward Processing Certificate (IPC)¹⁹ program, companies are exempt from paying customs duties and VAT on raw materials and intermediate unfinished goods imported to be used in the production of exported goods. Companies may choose whether to be exempt from the applicable duties and taxes upon importation (i.e., the Suspension System) or have the duties and taxes reimbursed after exportation of the finished goods (i.e., the Drawback System). Under the Suspension System, companies provide a letter of guarantee that is returned to them upon fulfillment of the export commitment. See GOT's initial QR at II-41 and II-42.

To participate in this program, a company must hold an IPC, which lists the amount of

¹⁹ During the POR, the IPC was implemented under Resolution No. 2005/8391. A copy of this resolution was submitted by the GOT in its June 28, 2011, initial questionnaire response at Exhibit 20.

raw materials/intermediate unfinished goods to be imported and the amount of product to be exported. See GOT's initial QR at II-43. The Undersecretariat for Foreign Trade/General Directorate of Exports is the authority responsible for administering the program. Id. at II-40. To obtain an IPC, an exporter must submit an application, which states the amount of imported raw material required to produce the finished products and a "letter of export commitment," which specifies that the importer of materials will use the materials to produce exported goods. Id. at II-43. Once an IPC is issued, the producer must show the certificate to Turkish customs each time it imports raw materials on a duty exempt basis. Id. There are two types of IPCs: (1) D-1 certificate for imported raw materials or intermediate unfinished goods used in the production of exported goods, and (2) D-3 certificate for imported raw materials or intermediate unfinished goods used in the production of goods sold in the domestic market and defined as "domestic sales and deliveries considered as exports."²⁰ During the POR, Borusan and Toscelik used D-1 certificates for the importation of raw materials used in the production of exported pipe and tube. No respondent used a D-3 certificate during the POR.²¹

Concerning D-1 certificates, pursuant to 19 CFR 351.519(a)(1)(ii), a benefit exists to the extent that the exemption extends to inputs that are not consumed in the production of the exported product, making normal allowances for waste, or if the exemption covers charges other than import charges that are imposed on the input. With regard to the VAT exemption granted under this program, pursuant to 19 CFR 351.517(a), in the case of the exemption upon export of indirect taxes, a benefit exists to the extent that the Department determines that the amount exempted exceeds the amount levied with respect to the production and distribution of like

²⁰ See GOT's Initial Questionnaire Response at 41; see also pages 42-43 and Exhibit 20 for additional information on D-3 certificates.

²¹ See Toscelik's Initial Questionnaire Response at Exhibit 15. See Borusan's Initial Questionnaire Response at Exhibit 31.

products when sold for domestic consumption.

In prior reviews, the Department has found that, in accordance with 19 CFR 351.519(a)(4)(i), the GOT has a system in place to confirm which inputs, and in what amounts are consumed in the production of the exported product, and that the system is reasonable for the purposes intended. See, e.g., Turkey Pipe 2004 Decision Memorandum at “Inward Processing Certificate Exemption” under “Programs Determined to Not Confer Countervailable Benefits.” The Department has also found that the exemption granted on certain methods of payments used in purchasing imported raw materials under this program does not constitute a subsidy pursuant to 19 CFR 351.517(a), because the tax exempted upon export does not exceed the amount of tax levied on like products when sold for domestic consumption. See Wire Rod Memorandum at “Inward Processing Certificate Exemptions” and Comment 8. No new information is on the record of this review to warrant a reconsideration of the Department’s earlier findings.

During the POR, under D-1 certificates, Borusan and Toscelik received duty and VAT exemptions on certain imported inputs used in the production of steel pipes and tubes. See Toscelik’s Initial Questionnaire Response at Exhibit 16; see also Borusan’s July 14, 2011, Questionnaire Response at 14. Consistent with the Department’s findings in Turkey Pipe 2004 Final and based on our review of the information supplied by the respondents regarding this program, we preliminarily determine there is no evidence on the record of this review that indicates the amount of exempted inputs imported under the program were excessive or that the firms used the imported inputs for any other product besides those exported.

Therefore, consistent with past cases,²² we preliminarily determine that the tax and duty exemptions, which Borusan and Toscelik received on imported inputs under D-1 certificates of

²² See Turkey Pipe 2004 Decision Memorandum, Turkey Pipe 2005 Preliminary Results, Turkey Pipe 2006 Preliminary Results, and NSR Preliminary Results.

the IPC program, did not confer countervailable benefits as each company consumed the imported inputs in the production of the exported product, making normal allowance for waste. We further preliminarily find that the VAT exemption did not confer countervailable benefits on Borusan or Toscelik because the exemption does not exceed the amount levied with respect to the production and distribution of like products when sold for domestic consumption. Further, because Borusan and Toscelik did not import any goods under a D-3 certificate during the POR, we preliminarily determine that this aspect of the IPC program was not used.

B. Investment Encouragement Program (IEP): Customs Duty Exemptions

The GOT provides IEPs that qualified recipients can use to import items duty free. In past CVD proceedings, the Department has repeatedly found this program to be not countervailable because benefits are not specific. See Certain Welded Carbon Steel Standard Pipe from Turkey: Preliminary Results of Countervailing Duty Administrative Review, (Turkey Pipe 2008 Preliminary Results), 75 FR 16439, 16443 (April 1, 2010), unchanged in Certain Welded Carbon Steel Standard Pipe from Turkey: Final Results of Countervailing Duty Administrative Review, 75 FR 44766 (July 29, 2010). However, based on allegations from petitioners in which they alleged changes to the program starting in January 1, 2009, the Department initiated an investigation of this program as it pertains to licenses issued after January 1, 2009. Toscelik and Borusan reported using this program. See Toscelik's December 12 QR at 1-2 and January 30 QR at 7 and Exhibit 5; see also Borusan's December 12, 2011, at 5. Concerning Toscelik, its use of the program was limited to IEP licenses that it received prior to January 1, 2009. Thus, we preliminarily determine that Toscelik's use of this program did not confer any countervailable benefits during the POR because the duty exemptions that Toscelik received relate to IEP licenses that the Department has previously determined were distributed in

a manner that were not specific. See Turkey Pipe 2008 Preliminary Results, 75 FR at 16439, 16443 (April 1, 2010).

Concerning Borusan, it reported receiving an IEP license after January 1, 2009, that allowed it to import a piece of equipment at a reduced duty rate. Borusan argues that the receipt of duty exemptions on this license was contingent upon the firm using the equipment to produce spiral welded pipe, which is non-subject merchandise. Upon review of the IEP license in question, we preliminarily determine that the benefit Borusan received on this license was tied to the production of spiral welded pipe at the time of bestowal. See Borusan's December 12, 2011, new subsidies allegations questionnaire response at p. 5-7 and Exhibits S3-2 and S3-3. Thus, we preliminarily determine that the benefits Borusan received under this program are tied to non-subject merchandise.

IV. Programs Preliminarily Determined To Not Be Used

We examined the following programs and preliminarily determine that Borusan and Toscelik did not apply for or receive benefits under these programs during the POR:

- A. Post-Shipment Export Loans
- B. Export Credit Bank of Turkey Buyer Credits
- C. Subsidized Turkish Lira Credit Facilities
- D. Subsidized Credit for Proportion of Fixed Expenditures
- E. Subsidized Credit in Foreign Currency
- F. Regional Subsidies
- G. VAT Support Program (Incentive Premium on Domestically Obtained Goods)
- H. IEP: VAT Exemptions
- I. IEP: Reductions in Corporate Taxes
- J. IEP: Interest Support
- K. IEP: Social Security Premium Support
- L. IEP: Land Allocation
- M. National Restructuring Program
- N. Regional Incentive Scheme: Reduced Corporate Tax Rates
- O. Regional Incentive Scheme: Social Security Premium Contribution for Employees
- P. Regional Incentive Scheme: Allocation of State Land
- Q. Regional Incentive Scheme: Interest Support

- R. OIZ: Waste Water Charges
- S. OIZ: Exemptions from Customs Duties, VAT, and Payments for Public Housing Fund, for Investments for which an Income Certificate is Received
- T. OIZ: Credits for Research and Development Investments, Environmental Investments, Certain Technology Investments, Certain “Regional Development” Investments, and Investments Moved from Developed regions to “Regions of Special Purpose”
- U. Provision of Buildings and Land Use Rights for Less than Adequate Remuneration under the Free Zones Law
- V. Corporate Income Tax Exemption under the Free Zones Law
- W. Stamp Duties and Fees Exemptions under the Free Zones Law
- X. Customs Duties Exemptions under the Free Zones Law
- Y. Value-Added Tax Exemptions under the Free Zones Law
- Z. OIZ: Exemption from Building and Construction Charges
- AA. OIZ: Exemption from Amalgamation and Allotment Transaction Charges

Verification

The Department’s regulations provide that factual information upon which the Secretary relies for the final results of an administrative review will be verified if a domestic party timely requests verification and the Secretary has not conducted verification during either of the two immediately preceding administrative reviews. See 19 CFR 351.307(b)(1)(v). While U.S. Steel timely requested that the Department conduct verification in this review, the Department has conducted verifications of Toscelik and Borusan during both of the immediately preceding administrative reviews. Therefore, in accordance with 19 CFR 351.307(b)(1)(iv)(B), we are not verifying Toscelik and Borusan in this administrative review.

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 2010, through December 31, 2010, we preliminarily determine the following total net countervailable subsidy rates: for Borusan is 0.27 percent ad valorem, and for Toscelik is 0.35 percent ad valorem; these rates are de minimis, pursuant to 19 CFR 351.106(c)(1).

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review. If the final results remain the same as these preliminary results, the Department will instruct CBP to liquidate without regard to countervailing duties all shipments of subject merchandise produced by Borusan and Toscelik entered, or withdrawn from warehouse, for consumption from January 1, 2010, through December 31, 2010. The Department will also instruct CBP not to collect cash deposits of estimated countervailing duties on all shipments of the subject merchandise produced by Borusan and Toscelik, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

We will instruct CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed administrative proceeding for each company. Those rates shall apply to all non-reviewed companies until a review of a company assigned these rates is completed.

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case and rebuttal briefs will be due at the dates specified by the Department. The Department will notify interested

parties of the case and rebuttal due dates once those dates are finalized. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(1)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Paul Piquado
Assistant Secretary
for Import Administration

____ March 26, 2012 _____
Date

[FR Doc. 2012-7846 Filed 03/30/2012 at 8:45 am; Publication Date: 04/02/2012]